

2005 DRAFTING REQUEST

Bill

Received: **11/04/2004**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Neal Kedzie (608) 266-2635**

By/Representing: **Matt**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Local Gov't - misc
Criminal Law - drugs**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Kedzie@legis.state.wi.us**

Carbon copy (CC:) to: **robin.ryan@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

County ordinances regarding possession of marijuana or drug paraphernalia

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 11/11/2004	lkunkel 12/01/2004 lkunkel 12/03/2004		_____			
/1			jfrantze 12/03/2004	_____	lnorthro 12/03/2004		
/2	mdsida 12/07/2004	lkunkel 12/08/2004	rschluet 12/08/2004	_____	lnorthro 12/08/2004	sbasford 12/29/2004	

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: **11/04/2004**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Neal Kedzie (608) 266-2635**

By/Representing: **Matt**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Local Gov't - misc
Criminal Law - drugs**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Kedzie@legis.state.wi.us**

Carbon copy (CC:) to: **robin.ryan@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

County ordinances regarding possession of marijuana or drug paraphernalia

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 11/11/2004	lkunkel 12/01/2004 lkunkel 12/03/2004		_____		↓ per Kedzie's office 12/29/04	
/1			jfrantze 12/03/2004	_____	Inorthro 12/03/2004		
/2	mdsida 12/07/2004	lkunkel 12/08/2004	rschluet 12/08/2004	_____	Inorthro 12/08/2004		

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: **11/04/2004**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Neal Kedzie (608) 266-2635**

By/Representing: **Matt**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Local Gov't - misc**
Criminal Law - drugs

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Kedzie@legis.state.wi.us**

Carbon copy (CC:) to: **robin.ryan@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:


County ordinances regarding possession of marijuana or drug paraphernalia

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 11/11/2004	lkunkel 12/01/2004 lkunkel 12/03/2004					
/1			jfrantze 12/03/2004		lnorthro 12/03/2004		



LRB-0645

12/03/2004 01:52:12 PM

Page 2

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/2/mk12/8

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: 11/04/2004

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Neal Kedzie (608) 266-2635

By/Representing: Matt

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Local Gov't - misc
Criminal Law - drugs

Extra Copies:

Submit via email: YES

Requester's email: Sen.Kedzie@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

County ordinances regarding possession of marijuana or drug paraphernalia ✓

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	mdsida	1/1mk12/1 1/12/12	12/12	12/12 Pg 12/12			

FE Sent For:

<END>

Dsida, Michael

From: Phillips, Matt
ent: Thursday, November 04, 2004 9:42 AM
o: Dsida, Michael
Subject: Drafting Request

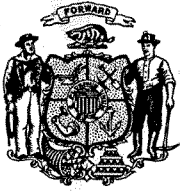
Mike:

Last session, you drafted 2003 AB 715, relating to ordinances in certain counties regarding drug paraphernalia and the possession of marijuana. This bill was enacted into law. As I understand the bill, it accomplished two items: A) it allows counties over 500,000 people to enact ordinances regarding drug paraphernalia, and, B) for counties over 500,000 people, it removes the preemption that county ordinances don't apply in municipalities that have also enacted a similar ordinance.

Could you please draft a bill for Senator Kedzie that would extend these two provisions to every county in the state.

Thank you, and if you have any questions regarding this request, please feel free to contact me either by phone or email.

Matt Phillips
Policy Advisor
State Senator Neal Kedzie
(608) 266-2635



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-06457
MGD: link
+ jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

GenCat

1 AN ACT ...; relating to: county ordinances regarding drug paraphernalia or the
2 possession of marijuana.

Analysis by the Legislative Reference Bureau

Under this bill, any county -- not just those with a population of 500,000 or more -- may enact and enforce an ordinance prohibiting the possession, manufacture, or delivery of drug paraphernalia by persons 17 years of age and older.

Under this bill, all such county ordinances apply throughout the county, regardless of the county's population.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 59.54 (25) of the statutes is amended to read:

59.54 (25) POSSESSION OF MARIJUANA. The board may enact and enforce an ordinance to prohibit the possession of 25 grams or less of marijuana, as defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance; except that any person who is charged with possession of more than 25 grams of marijuana, or who is charged with possession

1 of any amount of marijuana following a conviction for possession of marijuana, in this
2 state shall not be prosecuted under this subsection. ~~Any ordinance enacted under~~
3 ~~this subsection by a county with a population of less than 500,000 does not apply in~~
4 ~~any municipality that has enacted an ordinance prohibiting the possession of~~
5 ~~marijuana.~~ Any ordinance enacted under this subsection by a county with a
6 population of 500,000 or more applies in every municipality within the county.

History: 1995 a. 201 ss. 146 to 149, 154 to 156, 159, 160, 162, 175 to 177, 179, 180, 183, 191, 193, 210 to 213, 222, 226 to 228, 274, 283, 366, 403, 404; 1995 a. 448 s. 59; 1997 a. 27, 35; 2001 a. 16; 2003 a. 193.

7 **SECTION 2.** 59.54 (25m) of the statutes is amended to read:

8 59.54 (25m) DRUG PARAPHERNALIA. The board of a county with a population of
9 500,000 or more may enact an ordinance to prohibit conduct that is the same as that
10 prohibited by s. 961.573 (1) or (2), 961.574 (1) or (2), or 961.575 (1) or (2) and provide
11 a forfeiture for violation of the ordinance. The board may enforce an ordinance
12 enacted under this subsection in any municipality within the county.

History: 1995 a. 201 ss. 146 to 149, 154 to 156, 159, 160, 162, 175 to 177, 179, 180, 183, 191, 193, 210 to 213, 222, 226 to 228, 274, 283, 366, 403, 404; 1995 a. 448 s. 59; 1997 a. 27, 35; 2001 a. 16; 2003 a. 193.

13 **SECTION 3.** 961.577 of the statutes is amended to read:

14 **961.577 Municipal ordinances.** Nothing in this subchapter precludes a city,
15 village, or town from prohibiting conduct that is the same as that prohibited by s.
16 961.573 (2), 961.574 (2), or 961.575 (2) or a county with a population of 500,000 or
17 more from prohibiting conduct that is the same as that prohibited by s. 961.573 (1)
18 or (2), 961.574 (1) or (2), or 961.575 (1) or (2).

History: 1989 a. 121; 1995 a. 448 s. 320; Stats. 1995 s. 961.577; 2003 a. 193.

19 **SECTION 4. Initial applicability.**

20 (1) The treatment of section 59.54 (25) of the statutes first applies to a violation
21 of a county ordinance enacted under that section occurring on the effective date of
22 this subsection.

23 (END) sub

2003 ASSEMBLY BILL 715

January 5, 2004 - Introduced by Representatives HONABEL, STONE, TAYLOR, LADWIG, VRAKAS, PETTIS, OTT, HINES and CULLEN, cosponsored by Senators DARLING, LAZICH and COGGS. Referred to Committee on Criminal Justice.

may be imposed on both adults and juveniles

1 AN ACT to amend 59.54 (25), 349.02 (2) (b) 4, and 961.577; and to create 59.54
2 (25m), 778.25 (1) (a) 1m. and 818.02 (8) of the statutes; relating to: ordinances
3 in certain counties regarding drug paraphernalia and the possession of
4 marijuana.

Analysis by the Legislative Reference Bureau

County ordinances regarding drug paraphernalia

Current law prohibits the possession, manufacture, and delivery of drug paraphernalia. If a person 17 years of age or older violates the prohibitions relating to drug paraphernalia, he or she is subject to criminal penalties, a fine or imprisonment or both. If a person under the age of 17 violates the prohibitions relating to drug paraphernalia, he or she is generally subject to suspension or revocation of his or her privilege to operate a motor vehicle for not less than six months nor more than five years and either or both of the following: a forfeiture (civil monetary penalty) of up to \$500, with the amount depending on how many drug paraphernalia offenses the person committed in the preceding 12 months, and a requirement that he or she participate in community service work. Current law prohibits and provides more severe criminal penalties for the possession or use of drug paraphernalia used to produce or store methamphetamine.

Current law also allows a city, village, or town to enact and enforce ordinances prohibiting the possession, manufacture, or delivery of drug paraphernalia. The ordinances must prohibit the same conduct that is prohibited under the state

INS A from p. 2 of INSX

ASSEMBLY BILL 715

statutes relating to the possession, manufacture, and delivery of drug paraphernalia generally, ~~as opposed to the state statutes governing the possession or use of methamphetamine-related drug paraphernalia~~. ~~In addition, the ordinances can apply only to the possession, manufacture, and delivery of drug paraphernalia by a person under the age of 17.~~

~~This bill allows a county with a population of 500,000 or more (currently only Milwaukee County) to enact and enforce an ordinance prohibiting the possession, manufacture, or delivery of drug paraphernalia ~~(other than methamphetamine-related drug paraphernalia)~~ by persons 17 years of age and older. The ordinance must prohibit the same conduct that is prohibited under the state statutes relating to the possession, manufacture, and delivery of drug paraphernalia generally. A prosecutor could then charge a person aged 17 years or older for violating either the ordinance or the state statutes. A person prosecuted for violating an ordinance enacted under this bill would be subject to a forfeiture in an amount established by the ordinance instead of being subject to the criminal penalties provided under the state statutes.~~

County ordinances regarding possession of marijuana

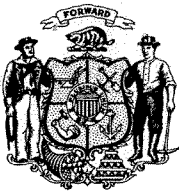
Current law prohibits the possession of marijuana. A person who violates this prohibition is subject to criminal penalties. Current law, however, also permits a county or municipality to enact and enforce an ordinance prohibiting the possession of 25 grams or less of marijuana. The penalty for violating such an ordinance is a forfeiture. If a municipality enacts such an ordinance, any comparable ordinance enacted by the county does not apply in that municipality ~~(reverse preemption)~~.

~~This bill specifies that the reverse preemption provision only applies in a county with a population of less than 500,000. If a county has a population of 500,000 or more, any county ordinance prohibiting the possession of 25 grams or less of marijuana applies in every municipality within the county.~~

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 59.54 (25) of the statutes is amended to read:

59.54 (25) POSSESSION OF MARIJUANA. The board may enact and enforce an ordinance to prohibit the possession of 25 grams or less of marijuana, as defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance; except that any person who is charged with possession of more than 25 grams of marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of marijuana, in this



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0645/1
MGD:lmk&jld:jf
Keep

2005 BILL

Soon

ReGen

- 1 AN ACT *to amend* 59.54 (25), 59.54 (25m) and 961.577 of the statutes; **relating**
2 **to:** county ordinances regarding drug paraphernalia or the possession of
3 marijuana.

Analysis by the Legislative Reference Bureau

County ordinances regarding drug paraphernalia

Current law prohibits the possession, manufacture, and delivery of drug paraphernalia. If a person 17 years of age or older violates one of the prohibitions relating to drug paraphernalia, he or she is subject to criminal penalties, a fine or imprisonment or both. If a person under the age of 17 violates the prohibitions relating to drug paraphernalia, he or she is generally subject to suspension or revocation of his or her privilege to operate a motor vehicle for not less than six months nor more than five years and either or both of the following: a forfeiture (civil monetary penalty) of up to \$500, with the amount depending on how many drug paraphernalia offenses the person committed in the preceding 12 months, and a requirement that he or she participate in community service work. More severe penalties may be imposed on both adults and juveniles for the possession or use of drug paraphernalia used to produce or store methamphetamine.

Current law also allows a county with a population of 500,000 or more (currently only Milwaukee County) to enact and enforce an ordinance prohibiting the possession, manufacture, or delivery of drug paraphernalia by persons 17 years of age and older. The ordinance must prohibit the same conduct that is prohibited under the state statutes relating to the possession, manufacture, and delivery of

BILL

drug paraphernalia generally, as opposed to the state statutes governing the possession or use of methamphetamine-related drug paraphernalia.

Under this bill, any county — not just those with a population of 500,000 or more — may enact and enforce an ordinance prohibiting the possession, manufacture, or delivery of drug paraphernalia by persons 17 years of age and older.

County ordinances regarding possession of marijuana

Current law prohibits the possession of marijuana. A person who violates this prohibition is subject to criminal penalties. Current law, however, also permits a county or municipality to enact and enforce an ordinance prohibiting the possession of 25 grams or less of marijuana. The penalty for violating such an ordinance is a forfeiture. If a municipality enacts such an ordinance, any comparable ordinance enacted by the county does not apply in that municipality, but only if the county has a population of less than 500,000. If a county has a population of 500,000 or more, any county ordinance prohibiting the possession of 25 grams or less of marijuana applies in every municipality within the county.

Under this bill, all such county ordinances apply throughout the county, regardless of the county's population.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 59.54 (25) of the statutes is amended to read:

2 **59.54 (25) POSSESSION OF MARIJUANA.** The board may enact and enforce an
3 ordinance to prohibit the possession of 25 grams or less of marijuana, as defined in
4 s. 961.01 (14), subject to the exceptions in s. 961.41 (3g) (intro.), and provide a
5 forfeiture for a violation of the ordinance; except that any person who is charged with
6 possession of more than 25 grams of marijuana, or who is charged with possession
7 of any amount of marijuana following a conviction for possession of marijuana, in this
8 state shall not be prosecuted under this subsection. ~~Any ordinance enacted under~~
9 ~~this subsection by a county with a population of less than 500,000 does not apply in~~
10 ~~any municipality that has enacted an ordinance prohibiting the possession of~~
11 ~~marijuana. Any ordinance enacted under this subsection by a county with a~~
12 ~~population of 500,000 or more applies in every municipality within the county.~~

13 **SECTION 2.** 59.54 (25m) of the statutes is amended to read:

BILL

59.54 (25m) DRUG PARAPHERNALIA. ~~The board of a county with a population of 500,000 or more~~ may enact an ordinance to prohibit conduct that is the same as that prohibited by s. 961.573 (1) or (2), 961.574 (1) or (2), or 961.575 (1) or (2) and provide a forfeiture for violation of the ordinance. The board may enforce an ordinance enacted under this subsection in any municipality within the county.

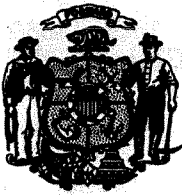
SECTION 3. 961.577 of the statutes is amended to read:

961.577 Municipal ordinances. Nothing in this subchapter precludes a city, village, or town from prohibiting conduct that is the same as that prohibited by s. 961.573 (2), 961.574 (2), or 961.575 (2) or a county with a population of 500,000 or more from prohibiting conduct that is the same as that prohibited by s. 961.573 (1) or (2), 961.574 (1) or (2), or 961.575 (1) or (2).

SECTION 4. Initial applicability.

(1) The treatment of section 59.54 (25) of the statutes first applies to a violation of a county ordinance enacted under that subsection occurring on the effective date of this subsection.

(END)



State of Wisconsin
2005 - 2006 LEGISLATURE

-0645/2
LRB-14661
MGD:lmk&jld:jf

2005 ASSEMBLY BILL 45

SB-21

Corrected Copy
03-01-2005

January 27, 2005 - Introduced by Representatives NASS, GUNDRUM, MUSSER, KESTELL, NISCHKE, TOWNSEND, HINES, STASKUNAS, DAVIS, OTT, HUNDERTMARK, HAHN and ALBERS, cosponsored by Senator KEDZIE. Referred to Committee on Criminal Justice and Homeland Security.

- 1 **AN ACT to amend 59.54 (25), 59.54 (25m) and 961.577 of the statutes; relating**
2 **to: county ordinances regarding drug paraphernalia or the possession of**
3 **marijuana.**

Analysis by the Legislative Reference Bureau

County ordinances regarding drug paraphernalia

Current law prohibits the possession, manufacture, and delivery of drug paraphernalia. If a person 17 years of age or older violates one of the prohibitions relating to drug paraphernalia, he or she is subject to criminal penalties, a fine or imprisonment or both. If a person under the age of 17 violates the prohibitions relating to drug paraphernalia, he or she is generally subject to suspension or revocation of his or her privilege to operate a motor vehicle for not less than six months nor more than five years and either or both of the following: a forfeiture (civil monetary penalty) of up to \$500, with the amount depending on how many drug paraphernalia offenses the person committed in the preceding 12 months, and a requirement that he or she participate in community service work. More severe penalties may be imposed on both adults and juveniles for the possession or use of drug paraphernalia used to produce or store methamphetamine.

Current law also allows a county with a population of 500,000 or more (currently only Milwaukee County) to enact and enforce an ordinance prohibiting the possession, manufacture, or delivery of drug paraphernalia. The ordinance must prohibit the same conduct that is prohibited under the state statutes relating to the possession, manufacture, and delivery of drug paraphernalia generally, as opposed

ASSEMBLY BILL 45

to the state statutes governing the possession or use of methamphetamine-related drug paraphernalia.

Under this bill, any county — not just a county with a population of 500,000 or more — may enact and enforce an ordinance prohibiting the possession, manufacture, or delivery of drug paraphernalia.

County ordinances regarding possession of marijuana

Current law prohibits the possession of marijuana. A person who violates this prohibition is subject to criminal penalties. Current law, however, also permits a county or municipality to enact and enforce an ordinance prohibiting the possession of 25 grams or less of marijuana. The penalty for violating such an ordinance is a forfeiture. If a municipality enacts such an ordinance, any comparable ordinance enacted by the county does not apply in that municipality, but only if the county has a population of less than 500,000. If a county has a population of 500,000 or more, any county ordinance prohibiting the possession of 25 grams or less of marijuana applies in every municipality within the county.

Under this bill, all such county ordinances apply throughout the county, regardless of the county's population.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 59.54 (25) of the statutes is amended to read:

2 **59.54 (25) POSSESSION OF MARIJUANA.** The board may enact and enforce an
3 ordinance to prohibit the possession of 25 grams or less of marijuana, as defined in
4 s. 961.01 (14), subject to the exceptions in s. 961.41 (3g) (intro.), and provide a
5 forfeiture for a violation of the ordinance; except that any person who is charged with
6 possession of more than 25 grams of marijuana, or who is charged with possession
7 of any amount of marijuana following a conviction for possession of marijuana, in this
8 state shall not be prosecuted under this subsection. ~~Any ordinance enacted under~~
9 ~~this subsection by a county with a population of less than 500,000 does not apply in~~
10 ~~any municipality that has enacted an ordinance prohibiting the possession of~~
11 ~~marijuana.~~ Any ordinance enacted under this subsection ~~by a county with a~~
12 ~~population of 500,000 or more~~ applies in every municipality within the county.

13 **SECTION 2.** 59.54 (25m) of the statutes is amended to read:

ASSEMBLY BILL 45

59.54 (25m) DRUG PARAPHERNALIA. The board of a county with a population of ~~500,000 or more~~ may enact an ordinance to prohibit conduct that is the same as that prohibited by s. 961.573 (1) or (2), 961.574 (1) or (2), or 961.575 (1) or (2) and provide a forfeiture for violation of the ordinance. The board may enforce an ordinance enacted under this subsection in any municipality within the county.

SECTION 3. 961.577 of the statutes is amended to read:

961.577 Municipal ordinances. Nothing in this subchapter precludes a city, village, or town from prohibiting conduct that is the same as that prohibited by s. 961.573 (2), 961.574 (2), or 961.575 (2) or a county ~~with a population of 500,000 or more~~ from prohibiting conduct that is the same as that prohibited by s. 961.573 (1) or (2), 961.574 (1) or (2), or 961.575 (1) or (2).

SECTION 4. Initial applicability.

(1) The treatment of section 59.54 (25) of the statutes first applies to a violation of a county ordinance enacted under that subsection occurring on the effective date of this subsection.

(END)